

**Staff
Summary
Report**



**To: Mayor & City Council
Through: City Manager**

Agenda Item Number: 14
Meeting Date: 12-13-01

SUBJECT: INTERGOVERNMENTAL AGREEMENTS WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT CAPITAL GRANTS FOR BUSES

PREPARED BY: CARLOS DE LEON, TRANSIT ADMINISTRATOR (350-8527)

REVIEWED BY: MARY O'CONNOR, DEPUTY PUBLIC WORKS MANAGER (350-8819)

BRIEF: Authorize the Mayor to sign intergovernmental agreements with the City of Phoenix for federal transit capital grants for bus purchases and associated capital maintenance.

COMMENTS: **PUBLIC TRANSIT (1106)** Authorize the Mayor to sign intergovernmental agreements with the City of Phoenix for federal transit capital grants for bus purchases, associated capital maintenance and capital cost of contracting.

Document Name: (20011213pwcdl02) **Supporting Documents:** Yes

SUMMARY: The City of Phoenix is the designated Federal Transit Administration grant recipient for the Phoenix metropolitan region. Each year federal transit grants become available through the City of Phoenix for bus purchases and other capital expenditures. Grant agreements AZ-90-X058 and AZ-03-0039 between the City of Phoenix and City of Tempe would provide Tempe with the following federal funds:

- 83% federal share of \$3,696,800 for the purchase of twelve buses.
- 80% federal share of \$271,200 for associated capital maintenance and cost of contracting related to bus service

FISCAL NOTE: Local match for bus purchases was budgeted in the FY 99-00 Transit CIP budget (cost center 6752, account 7508). Local match for associated capital maintenance is budgeted in the FY 01-02 and FY 02-03 operating budgets (cost center 3914, account 6620).

RECOMMENDATION: That the City Council authorize the Mayor to sign intergovernmental agreements amendments with the City of Phoenix for federal funds for bus purchases and associated capital maintenance.

Approved by:

Glenn Kephart
Public Works Manager

CITY OF PHOENIX, ARIZONA
PUBLIC TRANSIT DEPARTMENT
INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF PHOENIX
AND THE CITY OF TEMPE
(GRANT NO. AZ-90-X058)

AGREEMENT NO. _____

This Agreement made and entered into by and between the CITY OF PHOENIX, a municipal corporation (hereinafter referred to as "PHOENIX") and the CITY OF TEMPE (hereinafter referred to as "TEMPE").

W I T N E S S E T H:

WHEREAS, the City Manager of PHOENIX, is authorized and empowered by provisions of the City Charter to execute contracts; and,

WHEREAS, PHOENIX has Charter authority to provide transit services and Charter and statutory authority to enter into Agreements with other entities within the Phoenix Urban Area to provide transit services [A.R.S. Section 11-951, et seq.; Chapter 2, Section 2, Subsections (c)(i) and (l), Charter of the City of Phoenix, 1969]; and,

WHEREAS, TEMPE has broad Charter and statutory authority to engage in all of the activities and endeavors allowed under the laws of the state of Arizona and to enter into intergovernmental agreements (Article I, Section 1.01 and Article I, Section 1.03,, Charter of the City of TEMPE; A.R.S. Section 11-951, et seq.); and,

WHEREAS, the laws of the state of Arizona authorize municipalities to: (1) "engage in any business or enterprise which may be engaged in by persons by virtue of a franchise from the municipal corporation, . . ." [A.R.S. Section 9-511 (A)]; (2) to "appropriate and spend public monies" on activities that "will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of (its) inhabitants . . ." (A.R.S. Section 9-500.11); and, (3) to "be vested with all of the powers of incorporated towns as set forth in title 9, in addition to all powers vested in them pursuant to their respective charters or other provisions of law . . ." (A.R.S. Section 9-499.01); and,

WHEREAS, transit activities are one of the types of activities authorized pursuant to the aforementioned statutory and Charter authority and such powers do not conflict with any of the provisions of TEMPE's charter; and,

WHEREAS, Chapter 53 of 49 United States Code (formerly the Federal Transit Act of 1964, as amended), makes financial aid available to municipalities and local units of government showing a substantial effort toward the preservation, improvement and operation of mass transit systems; and,

WHEREAS, PHOENIX did apply for a Federal Transit Administration (FTA) grant for capital and planning assistance from FTA under project AZ-90-X058; and,

WHEREAS, PHOENIX and TEMPE have been authorized by their respective City Councils to enter into this Agreement; NOW, THEREFORE,

IT IS HEREBY AGREED as follows:

1. Grant Reimbursement. PHOENIX agrees to reimburse TEMPE for the federal share of the purchase of the following:

Reimbursement for the following expenditures shall be at 80.0 percent of the total eligible project costs (total eligible project costs listed parenthetically) –

- (a) Associated Capital Maintenance – Fixed Route Operations (\$46,200).***
- (b) Associated Capital Maintenance –Parts/Components (\$50,000).***
- (c) Capital cost of contracting (\$175,000)***

Reimbursement for the following expenditures shall be at 83 percent of the total eligible project costs (total eligible project costs listed parenthetically) -

- (d) Eight (8) new less than 30 foot accessible buses for expansion (\$2,416,800).***

Reimbursement shall not exceed the federal funds allocated to TEMPE, unless approved in writing by PHOENIX. TEMPE shall provide the required local match for these projects. No reimbursements shall be made unless all required reports have been submitted. To be eligible for reimbursement, projects must be completed and reimbursement must be requested within thirty (30) months of the grant award by the FTA, i.e., August 31st, 2001. Funding for uncompleted and unbilled projects will be reassigned at the discretion of Phoenix, as needed to close out the grant.

2. TEMPE shall submit reports and statements or plans as required by PHOENIX or the FTA. Quarterly reports are due on or before the 15th of the month following the end of the quarter, i.e., October 15, January 15, April 15 and July

15; the NTD Report shall be due 150 days after the end of the fiscal year (July 1 – June 30) and all other annual reports are due ninety days after the end of the fiscal year. Drug and Alcohol Reports are due January 31 for the previous calendar year.

REPORT	FREQUENCY	DESCRIPTION
DBE Report	Quarterly	Utilization of Disadvantaged Business Enterprise (DBE)
Grant Status Report	Quarterly	Status of each project by grant number
NTD Report	Annually	Copy for information only
Fixed Assets Status Report	Annually	Inventory of all FTA funded assets
Single Audit Report	Annually	Copy of federally required audit
Drug and Alcohol Reports	Annually	FTA Drug and Alcohol Testing

The reports and required submissions in the above list may be revised, reorganized, deleted or changed as required by FTA guidelines. **All reports must be current before any FTA funds will be disbursed by PHOENIX.**

3. TEMPE shall permit the authorized representatives of PHOENIX, the United States Department of Transportation, and the Controller General of the United States to inspect and audit all data and records relating to this Agreement. PHOENIX's audit shall be at TEMPE's sole cost and expense. All required records shall be maintained for a minimum of three years, after the grant has been formally closed.
4. Both parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and, further, that no member or delegate to Congress, the City Council or any employee of PHOENIX or TEMPE, has any interest, financial or otherwise, in this Agreement.
5. TEMPE shall fully comply with the Disadvantaged Business Enterprise (DBE) Regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26, and with the FTA-approved program and goals submitted annually by the recipient on behalf of the region. The Transit Civil Rights Officer of the City of Phoenix Public Transit Department and representative(s) of the City of Phoenix Equal Opportunity Department will meet annually with TEMPE to cooperatively determine DBE participation for all FTA assisted projects.

6. In performing the services for which federal funding is provided under this Agreement, TEMPE agrees to comply with all laws, rules, regulations, standards, orders or directives (hereinafter "Laws") applicable to this Agreement, to the services provided pursuant to this Agreement, and to PHOENIX as the designated recipient of FTA funding. The Laws referred to above include federal, state and local laws, and include, but is not limited to those items set forth in Exhibit "B", which exhibit is incorporated by reference.
7. TEMPE understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA) and agrees to comply with the IRCA in the performance of this Agreement.
8. The parties acknowledge that federal funds are being used for the work, services and/or operations provided under this Agreement. In that regard PHOENIX, as the designated grant recipient, is obligated to accept and comply with all of the terms and conditions set forth in the Federal Transit Administration (FTA) Master Grant Agreement. In order for TEMPE to receive funding under this Agreement with PHOENIX, TEMPE is required to similarly accept and comply with all such terms and conditions and TEMPE does hereby specifically agree to be bound thereby. A copy of the Master Grant Agreement has been provided to TEMPE and additional copies are available from PHOENIX. The Master Grant Agreement in effect for FY1999 and dated October 1, 1999, and any subsequent revisions, is, by this reference, incorporated herein as though fully set forth. Further, a summary of some of the terms of the Master Grant Agreement, as set forth its Table of Contents, are attached hereto as Exhibit "A" and are, by this reference, incorporated herein. The items listed in Exhibit "A" are illustrative only and are set forth in the Exhibit for TEMPE's ease of reference; TEMPE is solely responsible for complying with all of the terms and conditions of the Master Grant Agreement and any subsequent revisions whether or not they are set forth in Exhibit "A".
9. Conflicts of Interest. All parties hereto acknowledge that this Agreement is subject to cancellation by either party pursuant to the provisions of A.R.S. Section 38-511.

This Agreement shall be in full force and effect upon approval of the City Councils of PHOENIX and TEMPE, when executed by the duly authorized officials, and when filed with the County Recorder pursuant to A.R.S. Section 11-952(G).

TEMPE PASS THROUGH AGREEMENT (AZ-90-X058) (Continued)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

_____.

CITY OF PHOENIX, ARIZONA
Frank Fairbanks, City Manager

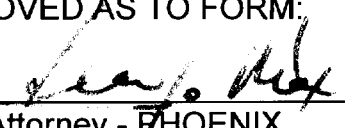
By _____
Public Transit Director

ATTEST:

City Clerk - PHOENIX

APPROVED AS TO FORM:

ACTING



City Attorney - PHOENIX

CITY OF TEMPE, ARIZONA
A Municipal Corporation

By _____
MAYOR

ATTEST:

City Clerk - TEMPE

APPROVED AS TO FORM:


City Attorney - TEMPE

APPROVED BY TEMPE CITY COUNCIL BY FORMAL ACTION ON: _____

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of Section 11-952(D), Arizona Revised Statutes, each of the undersigned attorneys acknowledge: (1) that they have reviewed the above Agreement on behalf of their respective clients; and, (2) that, as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

ACTING



Attorney for PHOENIX

Attorney for TEMPE

EXHIBIT A

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
MASTER AGREEMENT**

For Federal Transit Administration Agreements authorized by
49 U.S.C. §§ 5301 *et seq.*, Title 23, U.S.C. (Highways),
the National Capital Transportation Act of 1969, as amended,
the Transportation Equity Act for the 21st Century, 23 U.S.C. § 101 note,
or other Federal enabling legislation

FTA MA(7)

October 1, 2000

[<http://www.fta.dot.gov/library/legal/agreements/2001/ma.html>]

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Certifications and Assurances

Requirements of Categories I - XII are listed below, as referenced in Federal Register/Vol. 64. No. 208/Thursday, October 28, 1999/Notices (pages 58266 through 58274):

- I. Certifications and Assurances required of Each Applicant
- II. Lobbying Certification
- III. Certification Pertaining to Effects on Private Mass Transportation Companies
- IV. Public Hearing Certification for a Capital Project with Substantial Impacts
- V. Certification for the Purchase of Rolling Stock
- VI. Bus Testing Certification
- VII. Charter Service Agreement
- VIII. School Transportation Agreement
- IX. Certification for Demand Responsive service
- X. Substance Abuse Certifications
- XI. Certification Required for Interest and Other Financing Costs
- XII. Certifications and assurances for the Urbanized Area Formula Program, and the Job Access and Reverse Commute Program

CITY OF PHOENIX, ARIZONA
PUBLIC TRANSIT DEPARTMENT
INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF PHOENIX
AND THE CITY OF TEMPE
(GRANT NO. AZ-03-0039)

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W I T N E S S E T H:

WHEREAS, the City Manager of PHOENIX, is authorized and empowered by provisions of the City Charter to execute contracts; and,

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5. TEMPE shall fully comply with the Disadvantaged Business Enterprise (DBE) Regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26, and with the FTA-approved program and goals submitted annually by the recipient on behalf of the region. The Transit Civil Rights Officer of the City of Phoenix Public Transit Department and representative(s) of the City of Phoenix Equal Opportunity Department will meet annually with TEMPE to cooperatively determine DBE participation for all FTA assisted projects.

6. In performing the services for which federal funding is provided under this Agreement, TEMPE agrees to comply with all laws, rules, regulations, standards, orders or directives (hereinafter "Laws") applicable to this Agreement, to the services provided pursuant to this Agreement, and to PHOENIX as the designated recipient of FTA funding. The Laws referred to above include federal, state and local laws, and include, but is not limited to those items set forth in Exhibit "B", which exhibit is incorporated by reference.
7. TEMPE understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA) and agrees to comply with the IRCA in the performance of this Agreement.
8. The parties acknowledge that federal funds are being used for the work, services and/or operations provided under this Agreement. In that regard PHOENIX, as the designated grant recipient, is obligated to accept and comply with all of the terms and conditions set forth in the Federal Transit Administration (FTA) Master Grant Agreement. In order for TEMPE to receive funding under this Agreement with PHOENIX, TEMPE is required to similarly accept and comply with all such terms and conditions and TEMPE does hereby specifically agree to be bound thereby. A copy of the Master Grant Agreement has been provided to TEMPE and additional copies are available from PHOENIX. The Master Grant Agreement in effect for FY1999 and dated October 1, 1999, and any subsequent revisions, is, by this reference, incorporated herein as though fully set forth. Further, a summary of some of the terms of the Master Grant Agreement, as set forth its Table of Contents, are attached hereto as Exhibit "A" and are, by this reference, incorporated herein. The items listed in Exhibit "A" are illustrative only and are set forth in the Exhibit for TEMPE's ease of reference; TEMPE is solely responsible for complying with all of the terms and conditions of the Master Grant Agreement and any subsequent revisions whether or not they are set forth in Exhibit "A".
9. Conflicts of Interest. All parties hereto acknowledge that this Agreement is subject to cancellation by either party pursuant to the provisions of A.R.S. Section 38-511.

This Agreement shall be in full force and effect upon approval of the City Councils of PHOENIX and TEMPE, when executed by the duly authorized officials, and when filed with the County Recorder pursuant to A.R.S. Section 11-952(G).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

_____.

CITY OF PHOENIX, ARIZONA
Frank Fairbanks, City Manager

By _____
Public Transit Director

ATTEST:

City Clerk - PHOENIX

APPROVED AS TO FORM:

ACTING



City Attorney - PHOENIX

CITY OF TEMPE, ARIZONA
A Municipal Corporation

By _____
MAYOR

ATTEST:

City Clerk - TEMPE

APPROVED AS TO FORM:

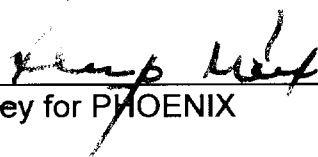
City Attorney - TEMPE

APPROVED BY TEMPE CITY COUNCIL BY FORMAL ACTION ON: _____

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of Section 11-952(D), Arizona Revised Statutes, each of the undersigned attorneys acknowledge: (1) that they have reviewed the above Agreement on behalf of their respective clients; and, (2) that, as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

ACTING



Attorney for PHOENIX

Attorney for TEMPE

EXHIBIT A

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
MASTER AGREEMENT**

For Federal Transit Administration Agreements authorized by
49 U.S.C. §§ 5301 *et seq.*, Title 23, U.S.C. (Highways),
the National Capital Transportation Act of 1969, as amended,
the Transportation Equity Act for the 21st Century, 23 U.S.C. § 101 note,
or other Federal enabling legislation

FTA MA(7)

October 1, 2000

[<http://www.fta.dot.gov/library/legal/agreements/2001/ma.html>]

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Certifications and Assurances

Requirements of Categories I - XII are listed below, as referenced in Federal Register/Vol. 64. No. 208/Thursday, October 28, 1999/Notices (pages 58266 through 58274):

- I. Certifications and Assurances required of Each Applicant
- II. Lobbying Certification
- III. Certification Pertaining to Effects on Private Mass Transportation Companies
- IV. Public Hearing Certification for a Capital Project with Substantial Impacts
- V. Certification for the Purchase of Rolling Stock
- VI. Bus Testing Certification
- VII. Charter Service Agreement
- VIII. School Transportation Agreement
- IX. Certification for Demand Responsive service
- X. Substance Abuse Certifications
- XI. Certification Required for Interest and Other Financing Costs
- XII. Certifications and assurances for the Urbanized Area Formula Program, and the Job Access and Reverse Commute Program